



UNITED STATES PATENT AND TRADEMARK OFFICE



DIAC  
JPW  
Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

OPPENHEIMER WOLFF & DONNELLY LLP  
840 NEWPORT CENTER DRIVE  
SUITE 700  
NEWPORT BEACH, CA 92660

COPY MAILED

NOV 16 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :  
S. Robert Kovac et al :  
Application No. 09/749,254 :  
Filed: December 27, 2000 :  
Attorney Docket No. 687-424 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 17, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, no extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.


Further correspondence with respect to this matter should be addressed as follows:

By mail:                   Mail Stop PETITION  
                              Commissioner for Patents  
                              Post Office Box 1450  
                              Alexandria, VA 22313-1450

By hand:                  Customer Service Window  
                              Randolph Building  
                              401 Dulany Street  
                              Alexandria, VA 22314

By facsimile:           (571) 273-8300  
                              ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions

cc:  
Daniel C. Schulte  
Kagan Binder, PLLC  
221 Main Street North, Suite 200  
Stillwater, MN 55082

Attachment: Advisory Action

Organization Bldg./Room  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
Alexandria, VA. 22313-1450  
If Undeliverable Return In Ten Days  
Official Business  
Penalty For Private Use, \$300

RECEIVED  
JAN 20 2006  
USPTO MAIL CENTER

U.S. OFFICIAL MAIL  
PENALTY FOR  
PRIVATE USE \$300  
02 1A \$00.370  
0004204479 NOV 16 2005  
MAILED FROM ZIP CODE 22314



RECEIVED  
JAN 20 2006  
USPTO MAIL CENTER

RETURN  
TO SENDER  
FWDC ORDER EXPIRED

92660+6391-73